

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation into the
Operations and Practices of Verizon (formerly
GTE California Incorporated) with respect to its
Individual Case Basis Contracts.

Investigation 02-04-027
(Filed April 22, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUIRING SETTLEMENT DISCUSSIONS**

By Order Instituting Investigation (I.) 02-04-027 the Commission directed Consumer Protection and Safety Division (CPSD, formerly Consumer Services Division) to conduct a review of Verizon's operations and practices in connection with Individual Case Basis contracts. The Commission ordered CPSD to retain and supervise consultants for the review, and Verizon to reimburse the Commission for the consultants' costs.

On September 12, 2002, CPSD filed a motion asking the Commission to either issue an order under Pub. Util. Code § 1701.2(d) extending the 12-month deadline for completing this adjudicatory proceeding, or dismiss the proceeding without prejudice while at the same time ordering Verizon to underwrite the cost of outside consultants to complete the investigation under CPSD's direction. Verizon opposes both alternatives; if any extension is to be granted, Verizon urges it not exceed three months.

CPSD has been consistent in its projections that the investigation the Commission ordered in I.02-04-027 will take longer than 12 months. As early as the first prehearing conference in June 2002, CPSD expressed strong doubts that

state contracting requirements would allow it to obtain a consultant, complete the investigation and be ready for the November 2002 evidentiary hearing dates then being considered. Subsequent events bore CPSD out, and the evidentiary hearings were canceled.

A second prehearing conference was held on November 15, 2002 at which I directed CPSD to prepare and file a proposed revised proceeding schedule. In mid-December 2002, CPSD filed that schedule, estimating that it would require at least three more years to complete the proceeding.

Verizon remains vigorously opposed to an extended schedule. At the November 2002 prehearing conference, Verizon implied that it had approached CPSD with a suggestion that a negotiated settlement based on the investigatory materials already in CPSD's possession would be appropriate if the proceeding could not otherwise be completed expeditiously. CPSD responded that, while it had indeed reviewed the considerable volume of Appendix A and Appendix B materials referenced in I.02-04-027, personnel shortages had kept it from entering into settlement negotiations.

In its December filing, CPSD makes the following statement:

Under these circumstances, it appears that the cost of the audit ordered in I.02-04-027 may exceed the potential benefit that would be derived by Verizon's customers from the audit. Nonetheless, CPSD remains under Commission order to contract for this audit, and under the advice of the ALJ to proceed as through an extension would be granted sufficient to complete the audit. CPSD again asks the Commission to consider the best course for the protection of consumers in this matter. Given the difficult circumstances outlined above, the Commission would be wise to consider this case in a way that makes maximum use of work that has already been done, that carries out the Commission's enforcement responsibilities, but does not lead to a protracted review process.

CPSD's meaning is unclear. On the one hand, it has pending a motion to either extend the Section 1701.2 deadline or dismiss the proceeding in a way that requires Verizon to fund CPSD's continued investigation using consultants, while on the other hand it implies that it has insufficient personnel to coordinate a consultant audit and questions whether such an audit would even be worth the cost.

In addressing CPSD's latest schedule filing, Verizon once again argues, "[The] Commission should dismiss the investigation with prejudice. As an alternative, the Commission should direct the parties to enter into discussions towards a negotiated settlement based on the existing record and set a strict schedule for doing so."

Verizon's suggestion that the parties be directed to enter into settlement discussions is a good one. It is, in fact, the path forward that comes closest to addressing all of the concerns CPSD outlines in its December statement. Commission president Peevey, who is also the Assigned Commissioner in this proceeding, has gone on record as strongly favoring settlements in which the settling parties follow the Commission's rules and produce outcomes that are in the public interest. I believe that the circumstances of this proceeding make it a prime candidate for such an outcome.

Accordingly, Verizon and CPSD will be directed to enter into the discussions Verizon suggests. The parties are to hold a first meeting not later than February 28, 2003, and unless a settlement has been reached, a second by not later than March 14. The parties are jointly to file and serve not later than March 21 a brief written follow-up reporting the dates discussions were actually held, whether they are continuing, and each party's view on the prospects for achieving settlement.

Under Section 1701.2, this adjudicatory proceeding must be resolved by April 22, 2003. I intend to recommend to the Commission an order extending the deadline unless it appears that the proceeding will be resolved by that date.

IT IS RULED that:

1. Verizon and Consumer Protection and Safety Division shall enter into discussions towards a negotiated settlement in this proceeding. Verizon and CPSD shall hold their first settlement meeting not later than February 28, 2003, and unless a settlement has been reached, a second by not later than March 14, 2003.

2. Verizon and CPSD shall jointly file and serve not later than March 21, 2003 a brief written follow-up reporting the dates settlement discussions were held, whether they are continuing, and each party's view of the prospects for achieving settlement.

Dated February 7, 2003, at San Francisco, California.

James C. McVicar
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Requiring Settlement Discussions on all parties of record in this proceeding or their attorneys of record.

Dated February 7, 2003, at San Francisco, California.

Jeannie Chang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

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